<u>REMARKS</u>

Claims 1-6 and 8-41 are currently pending in the subject application and are presently under consideration. Claims 1, 13, 21, 28, 38 and 41 have been amended as shown on pp. 2-9 of the Reply. Claims 10 and 24 have been cancelled as shown on pp. 3-5 of the Reply.

The Examiner is thanked for courtesies extended during an interview conducted on November 20, 2008. The main focus of the interview was on the 35 U.S.C. §101 rejection. While the presented matter generally related to all the claims, the crux was upon claim 1. The examiner made suggestions on how to overcome the 35 U.S.C. §101 which are represented in the aforementioned amendments. No reference was discussed in detail. The interview was conducted with Ronald Krosky (Reg. No. 58,564) and Examiner Tecklu. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I.   Rejection of Claims 1, 6, 8-10, and 13 Under 35 U.S.C. §101

Claims 1, 6, 8-10, and 13 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. This rejection should be withdrawn for at least the following reasons. Rejection of these claims is improper in view of the amendments herein.

The Office Action dated September 4, 2008 acknowledges independent claims 1 and 13 recite functional descriptive material. These claims have been amended to include *physical computer readable media*. When associated with computer hardware such as computer readable media, functional descriptive material is allowable. *See* MPEP § 2106. Thus, amended claims 1 and 13 (and claims 6 and 8-10, which depend from claim 1) are allowable.

II.   Rejection of Claims 1-6, 8-9, 11-23, and 25-41 Under 35 U.S.C. §102(e)

Claims 1-6, 8-9, 11-23, and 25-41 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lin *et al*. (US 2005/0091226 A1). This rejection should be withdrawn for at least the following reasons. Lin *et al*. does not disclose each and every element of the subject claims as arranged within the claims.

Anticipation under 35 U.S.C. §102 requires that a single prior art reference show **each and every element** as described in the claim. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d

1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). Even where all elements are found, a prior art reference does not anticipate a claim where the reference does not disclose the subject matter as arranged in the claim. *Net MoneyIn, Inc. v. Verisign, Inc.*, 2007-1565 (Fed. Cir. 2008), *available at* http://www.cafc.uscourts.gov/opinions/07-1565.pdf (last visited October 20, 2008).

Applicants' invention generally relates to a source code control architecture which allows clients to "check out" source code to facilitate offline activity and mitigate conflicts in a multi-user remote environment. A client may check out a copy of a source code file from a server, which is cached in a pristine (unmodified) condition along with associated files. A client workspace manages the source code copy, and tracks activities and modifications using an activity list when the client is operating offline. When the user is offline, the cache facilitates uninterrupted use of the source code files. When a connection to a server is restored, the server files are updated according to the activity list after resolving any file version conflicts.

Lin *et al.* relates to a client side caching infrastructure employed to safeguard users and applications across connection interruptions and bandwidth changes. Specifically, Lin *et al.* discloses the use of persistent caching during times when a stable connection is present, which allows continued local utilization of the cached files if the connection is lost. The implementation enables portions of a path to a file to remain online even when the path is broken at a point. A truth-on-client scheme is employed to prevent the client from losing changes because of network reconciliation when a connection is reestablished.

While applicant's representative believes Lin *et al.* fails to disclose other aspects of the rejected claims and that the cited document does not rise to the level of sophistication presented by the subject application, rejected claims have been amended to expedite fruitful prosecution. Amended independent claim 1 recites, in part, a system ***wherein one of the client-side client control component and the server-side client control component checks for an error during the update process and determines whether the update can proceed or must be aborted in part or whole***. Similarly, amended claim 21 recites features relating to ***determining whether an update of at least one of a portion and all of the activity data can proceed if an error is detected during the update process or if the error is unresolveable and the update cannot proceed; and transmitting the activity data to the remote location during an online mode to update the remote source code file during an update process if no unresolveable error is***

detected. Claim 13 includes ***an activity list of the client that stores an activity associated with a modification of the source code file in an arbitrary order which need not be sequential, such that the client checks the activity list for an error during an update process and determines whether to transmit the activity list when the client moves to an online mode or to abort a part or all of the update process***. While exact language is omitted for brevity, claims 28, 38 and 41 recite akin features, and these claims are incorporated in the remarks which follow.

Lin *et al.* at least fails to disclose a system which *checks for an error during the update process and determines whether the update can proceed or must be aborted in part or whole* as recited in the above independent claims. Lin *et al.* does discuss returning errors if write caching fails. This is a simple action performed by almost any software following failure of one or more commands. However, as claimed, the error checking is not intended only to manage faults that arise in processing, but also those that arise as a consequence of the operating environment or user behavior that would not produce an error but for that particular environment (such as a system dedicated to shared, multi-user, online/offline source code development). Further, Lin *et al.* only attempts to transition to offline if a write caching fails, whereas the subject claims mitigate the consequence of an error by determining whether the update may proceed, may proceed in part, or must be aborted.

It is thus apparent that Lin *et al.* does not disclose these and other aspects of independent claims 1, 13, 21, 28, 38 and 41. Therefore, the rejection of these claims should be withdrawn. The rejection of claims 2-6, 8-9, 11-12, 14-21, 22-23, 25-27, 29-37 and 39-40 should also be withdrawn, as these claims depend from allowable independent claims 1, 13, 21, 28 and 38.

III.   Rejection of Claims 10 and 24 Under 35 U.S.C. §103(a)

Claims 10 and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin *et al.* (US 2005/0091226 A1) in view of Leherbauer (US 2003/0033590 A1). Rejection of claims 10 and 24 is moot in view of cancellation of these claims.

Further, no proper combination of Lin *et al.* and Leherbauer can render obvious the remaining claims of the subject application. Leherbauer teaches a method and software system for incorporating a version control tool into an integrated development environment. Particularly, objects created in the integrated development environment will include command information corresponding to a version control command. This information is accessible via a

version control adapter, which communicates this information to a version control tool. While Leherbauer does discuss "locking" a file when it is being edited by another user, this does not suggest a system which *checks for an error during the update process and determines whether the update can proceed or must be aborted in part or whole*. Leherbauer makes no mention to an update process which may be analyzed in part allowing acceptable portions to be committed even where the entire process may not complete. Further, Leherbauer does not actually state that by "locking" a file, the system is explicitly creating an error for other users attempting to edit the file. Without even going this far, the Leherbauer certainly cannot suggest analysis and reconciliation processes for such errors. Thus, the cited documents, alone or in combination, would fail to render obvious the subject claims.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP640US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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